

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 954 - SB 1003

March 25, 2011

SUMMARY OF BILL: Authorizes law enforcement personnel to access the Controlled Substance Monitoring Database if they meet the following requirements: pre-register with the Board of Pharmacy by written application; receive pre-approval from their supervisor and the District Attorney General; and receive approval from the Board to access the Database. Requires law enforcement agencies with access to the Database to remit an administrative fee in the amount consistent with the administrative fee remitted by pharmacies and medical prescribers. Removes the provision that allows the information contained in the Database to be subject to production pursuant to an order of a circuit or criminal court in a criminal investigation or pending prosecution. Adds that the information obtained from the Database by law enforcement is not a public record and could be shared with other law enforcement officers, but only upon the direction of the officer or agent who originally requested the information. Authorizes disclosure of information by a licensed practitioner or a pharmacist only to: the patient to whom the information relates; other dispensers identified by the information; and law enforcement personnel, provided such personnel is engaged in the official investigation and enforcement of state and federal laws involving controlled substances or to ensure that the practitioners are meeting reporting requirements. Creates a Class D felony for intentional unauthorized use or disclosure of Database information by law enforcement personnel.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant/Board of Pharmacy

Increase State Expenditures – Not Significant/Board of Pharmacy
\$8,700/Incarceration*

Increase Local Expenditures – Not Significant

Assumptions:

- The Board of Pharmacy will receive pre-registration requests from the additional authorized users and will be required to approve or disapprove the registration application. The Board will also be required to verify the information on the applications submitted by law enforcement on an annual basis and to ensure that law enforcement personnel enter a case number that will correspond with an investigation before accessing the Database.

HB 954 - SB 1003

- Modification of the software to create a field to enter a law enforcement case number can be performed in the currently prepared system upgrade and will not result in a significant increase in expenditures. Additional requests for access and verification can be accommodated within existing resources.
- Any administrative fees charged to access the Database will not be significant and will be used to offset any costs incurred by the Board of Pharmacy.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. The Board of Pharmacy had a balance of \$74,641.74 in FY09-10 and a deficit of \$59,776.49 in FY08-09. As of June 30, 2010, the Board's cumulative balance was \$276,649.24.
- Based on the information provided by the Tennessee Bureau of Investigation, implementation of the provisions of this bill will result in a not significant increase in expenditures to the Bureau.
- The Department of Correction (DOC) assumes one additional admission every five years for the Class D felony of the intentional unauthorized use or disclosure of controlled substance database information by law enforcement personnel.
- According to the U. S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant increase in incarceration as a result of population growth. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every five years.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class D felony is 1.97 years (719.54 days) at a cost of \$43,618.51 (\$60.62 x 719.54 days).
- The annualized time served per conviction is 143.91 days (0.20 annual number of convictions x 719.54 days served). The annualized cost per conviction is \$8,723.82 (\$60.62 x 143.91 days).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/bos